

## C.12

**TO:** City Council

**FROM:** Rosemarie Ives, Mayor

**DATE:** October 18, 2005

**SUBJECT: ORDINANCE: MINOR AMENDMENTS TO WELLHEAD PROTECTION REGULATIONS**

### I. RECOMMENDED ACTION

Move to approve the attached Wellhead Protection Ordinance Amendments to update and streamline the administrative requirements under the Wellhead Protection Program.

### II. DEPARTMENT CONTACT PERSONS

David Rhodes, Director of Public Works	556-2705
Lenda Crawford, Director of Finance	556-2160
Jon Spangler, Natural Resources Division Manager	556-2823
Helen Eckhart, Revenue & Consumer Affairs Manager	556-2182
Tom Barry, Natural Resources Engineering Section Manager	556-2870
Kevin Murphy, Wellhead Protection Program Lead	556-2756

### III. DESCRIPTION

#### Background

On October 21, 2003, the City Council approved the Wellhead Protection Ordinance establishing the regulatory framework and authority to safeguard the City's underground municipal drinking water supply. Since adoption of the Wellhead Protection Ordinance, Natural Resources staff has been working on the following program elements outlined in the Implementation and Program Plan.

- Development review standards and hazardous materials information collection program elements have been implemented;
- More than 2000 Hazardous Materials Questionnaires have been collected and processed;
- Nearly two dozen developing and contaminated property investigations have been performed;
- The City's Contaminant Inventory has been updated;

- Relationships with state and local agencies have been developed to improve coordination and collaboration on local environmental remediation and/or problem sites.
- Inspection and monitoring program elements are currently being developed and will be followed by the development of a capital improvement program plan.

### **Ordinance Amendments**

Although the first two years of implementation have been very successful, staff has recognized an opportunity to streamline administrative processes, improve efficiency, timeliness, and productivity, and build in flexibility to further reduce the administrative burden on the business community. Improvements to the existing Wellhead Protection Ordinance include:

- Reconnecting codified Wellhead Protection references that were severed or changed during:
  - Amendments made to the Critical Areas Regulations, Chapter 20D.140 RCDG, per Ordinance 2259, passed by Council on May 17, 2005.
  - Recodification of the Redmond Fire Code Chapter 15.06 RMC (formerly 20E.100 RCDG) per Ordinance 2215, approved by Council on June 1, 2004.
- Changing the Hazardous Materials Questionnaire submittal requirements to be the same for businesses, non-profits, and governmental facilities or activities.
- Changing the Hazardous Materials Questionnaire Submittal Requirements to allow the Director the flexibility to extend the frequency and due date of submittal or eliminate submittal if other submissions satisfy the information requirements of the Ordinance.
- Changing the inspection procedure to maintain consistency with the inspections procedures of the Stormwater Maintenance Code (RMC 13.06.110) to insure that a consistent procedure is utilized for joint, coordinated inspections.
- Changing the Notice and Order procedure to remain consistent with existing City policy for the issuance of Notices and Orders.

Also amended is Section 5.04.070 (d) of the business license code clarifying Hazardous Materials Questionnaire submittal requirements for new and existing businesses.

#### **IV. IMPACT**

##### **A. Service Delivery:**

The proposed amendments will impact all regulated organizations that are physically located within Wellhead Protection Zones 1, 2, or 3. Specifically, businesses, non-profit organizations, governmental organizations and the like would be impacted.

##### **B. Fiscal:**

There is no cost associated with incorporation of the Wellhead Protection Ordinance Amendments. In fact, it is likely that cost savings will be realized by both the regulated community and the City by reducing the administrative reporting requirements of the regulated community.

#### **V. ALTERNATIVES**

Council could choose not to adopt the Wellhead Protection Ordinance Amendments and continue administration of the ordinance as originally adopted. However, this alternative would prevent the City from gaining flexibility in administration of the ordinance and eliminate the potential for the regulated community to take advantage of reduced administrative requirements.

#### **VI. LIST OF ATTACHMENTS**

##### **A. Wellhead Protection Ordinance with Exhibits**

**William J. Campbell for**  
\_\_\_\_\_  
David Rhodes, Director of Public Works

**10/7/05**  
\_\_\_\_\_  
Date

**s/s**  
\_\_\_\_\_  
Lenda Crawford, Director of Finance

**10/12/05**  
\_\_\_\_\_  
Date

Approved for Council Agenda **s/s**  
\_\_\_\_\_  
Rosemarie Ives, Mayor

**10/7/05**  
\_\_\_\_\_  
Date

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9/26/05

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON; RELATING TO WELLHEAD PROTECTION REQUIREMENTS; AMENDING SECTION 5.04.070 OF THE REDMOND MUNICIPAL CODE; AMENDING CHAPTER 13.07 OF THE REDMOND MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, in 2003 the City Council adopted Wellhead Protection requirements codified at chapter 13.07 of the Redmond Municipal Code (“RMC”) in order to ensure the long-term protection of the City’s underground drinking water resource and to protect the City’s drinking water infrastructure from costly and potentially compromising contamination events; and

WHEREAS, subsection 5.04.070(d) of the Redmond Municipal Code requires that applications for business licenses and license renewals within the boundaries of Wellhead Protection Zones 1, 2, or 3 be accompanied by a completed Hazardous Materials Questionnaire; and

WHEREAS, in 2005 all businesses submitted their respective Hazardous Materials Questionnaires satisfying the initial Wellhead Protection requirements set out in chapter 13.07 of the Redmond Municipal Code; and

WHEREAS, now that the initial Wellhead Protection requirements have been satisfied, the City Council has determined that submittal of the Hazardous Materials Questionnaires no longer needs need to be a part of the business license renewal process; and

WHEREAS, recodification of the Redmond Fire Code and amendments to the Critical Areas Regulations necessitate technical changes in chapter 13.07 of the Redmond Municipal Code to reflect current internal references; and

WHEREAS, the City Council desires to further amend the enforcement provisions of chapter 13.07 in order to more closely parallel the Notice and Order provisions under RMC 1.14.100; and

WHEREAS, City staff recommends further amendments to streamline the administrative requirements under the Wellhead Protection Program; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 5.04.070(d) Amended. Section 5.04.070(d) of chapter 5.04 of the Redmond Municipal Code entitled “General Business Regulations” is hereby amended to read as set forth on Exhibit A attached hereto and incorporated herein by this reference as if set forth in full.

Section 2. Chapter 13.07 Amended. Sections 13.07.030, 13.07.060, 13.07.100, 13.07.130, and 13.07.170 of chapter 13.07 of the Redmond Municipal Code entitled “Wellhead Protection” are hereby amended to read as set forth on Exhibit B attached hereto and incorporated herein by this reference as if set forth in full.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance or the amended sections of chapters 5.04 or 13.07 adopted hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance or the amended chapters.

Section 4. Effective Date. This ordinance, being an administrative action, is not subject to referendum and shall take effect and be in full force five (5) days after its passage and publication of a summary as provided by law.

CITY OF REDMOND

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MAYOR ROSEMARIE IVES

ATTEST/AUTHENTICATED:

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CITY CLERK, MALISA FILES

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

By: \_\_\_\_\_

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
SIGNED BY THE MAYOR:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO. \_\_\_\_\_

## EXHIBIT A

### Wellhead Protection Ordinance

#### Amendment to RMC 5.04.070(d)

(d) Applications for new business licenses ~~or license renewals~~, including home businesses, within the boundaries of Wellhead Protection Zones 1, 2, or 3 shall be accompanied by a completed Hazardous Materials Questionnaire to determine the regulatory status of the business. The Director of Public Works, or his or her designee, shall review and approve the Hazardous Materials Questionnaire. Applications for business license renewals do not need to be accompanied by a Hazardous Materials Questionnaire; however, the Director of Public Works, or his or her designee, may require an updated Hazardous Materials Questionnaire from renewing businesses in accordance with the requirements under chapter 13.07, Wellhead Protection.

**EXHIBIT B**  
**Wellhead Protection Ordinance**  
**Minor Amendments**  
**RMC Chapter 13.07**

**13.07.030 Definitions.**

For the purpose of this chapter, the following definitions shall apply. Additional definitions related to wellhead protection are located in Chapter 20A20 RCDG.

(1) "Business license" means that document issued by the City under authority of Chapter 5.04 of the Redmond Municipal Code licensing the transaction of the indicated business by the person whose name appears thereon for the stated year.

(2) "Director" means the Director of the Public Works Department or his/her designee.

(3) "Hazardous Materials Inventory Statement" means a form provided by the City of Redmond and completed by a facility owner or operator that discloses the types, quantities, and locations of hazardous materials and other deleterious substances that are or will be stored, handled, treated, used, produced, recycled, or disposed of at the facility. The Hazardous Materials Inventory Statement shall be prepared pursuant to requirements of the Redmond Fire Code, Chapter ~~20E.100 RCDG~~15.06 RMC.

(4) "Hazardous Materials Management Plan" means a form provided by the City of Redmond and completed by a facility owner or operator that includes the facility description, the Hazardous Materials Inventory Statement; descriptions of separation, secondary containment, and monitoring for aboveground and underground storage areas and waste disposal; record keeping; an emergency response plan; and an emergency response training plan. The Hazardous Materials Management Plan shall be prepared pursuant to requirements of the Redmond Fire Code, Chapter ~~20E.100 RCDG~~15.06 RMC.

(5) "Hazardous Materials Questionnaire" means a form provided by the City of Redmond and completed by a facility owner or operator that discloses the types and estimated amounts of hazardous materials used by the facility, and the operational activities of the facility.

(6) "Monitoring well" means a well designed to obtain a representative groundwater sample or designed to measure the water level elevations in either clean or contaminated water or soil.

(7) "Operator" means any person or persons in control of, or having responsibility for, the operation of a facility.

(8) "Owner" means for purposes of this chapter, a person or persons with a vested ownership interest in a facility, including a leasehold interest, but does not include persons holding only contingent interests or security interests in all or a portion of the facility.

(9) "Person" means an individual, firm, association, joint venture, partnership, municipality, government agency, political subdivision, industry, public or private corporation, owner, lessee, tenant, or any other entity whatsoever.

(10) "RCDG" means the Redmond Community Development Guide.

(11) "Redmond Fire Code" means the fire code adopted by the City of Redmond.



(12) "Retail facility" means a building, structure, or portion thereof, used for the display and sale of merchandise, and involving stocks of goods, wares, or merchandise incidental to such purposes and accessible to the public. Retail facilities include, but are not limited to, the following: department stores, drug stores, markets, paint stores without bulk handling, shopping centers, and wholesale and retail stores.

(13) "Wellhead Protection Zones" means land areas delineated by the City for purposes of safeguarding groundwaters that supply, or potentially supply, drinking water to wells operated by the City. (Ord. 2180 § 1 (part), 2003).

### **13.07.060 Hazardous Materials Questionnaire required.**

~~A. Businesses, public agencies, institutions, nonprofit organizations, and any other organization or person located in Wellhead Protection Zone 1, 2, or 3 that use, store, handle, treat, produce, recycle, or dispose of hazardous materials shall submit a Hazardous Materials Questionnaire in accordance with RMC 5.04.070(d), or at the request of the Director, within 30 days of receipt of notice from the City and shall comply with the wellhead protection chapter accordingly. The City may grant a one-time thirty (30) day extension at the written request of the person. The Director shall review and approve the Hazardous Materials Questionnaire and use it to determine whether the person must submit a Hazardous Materials Inventory Statement.~~  
~~The Director shall review and approve the Hazardous Materials Questionnaire submitted in accordance with RMC 5.04.070(D). The Director shall use the Hazardous Materials Questionnaire to determine whether the applicant must submit a Hazardous Materials Inventory Statement. If the Director determines that a Hazardous Materials Inventory Statement is required, the applicant must submit it within 30 days of receipt of notice from the City. The City may grant a one-time thirty (30) day extension at the written request of the applicant.~~

~~B. Information requirements for public agencies, institutions, nonprofit organizations, and any other organization which is not required to have a business license in Zone 1, 2, or 3 that use hazardous materials:~~

~~1. By January 31st of each year, or at the request of the Director, public agencies, nongovernmental agencies, nonprofit organizations, or any other organization not required to have a business license shall complete a Hazardous Materials Questionnaire and shall comply with the wellhead protection chapter accordingly.~~

~~2. If it is determined that the public agency, governmental agency, institution, nonprofit organization, or other organization not required to have business license is required to submit a Hazardous Materials Inventory Statement. The entity must submit the Hazardous Materials Inventory Statement within thirty (30) days of a receipt of notice from the City.~~

~~CB.~~ The following facilities or activities are exempt from submitting a Hazardous Materials Questionnaire:

1. Heating equipment fuel tanks with a capacity of less than one thousand one hundred (1,100) gallons existing as of the effective date of this chapter and containing heating fuel for consumptive use on the parcel where used.

2. Petroleum products stored in vehicle or equipment fuel tanks.

3. Storage within retail facilities of hazardous materials or other deleterious substances for sale in original containers with a capacity of less than or equal to five (5) gallons liquid or one hundred (100) pounds solid.

4. Application of fertilizers and pesticides and their commercial formulations, if done in accordance with state and federal standards for accepted farming and horticultural practices.

5. Temporary presence of maintenance chemical substances, such as paints and paint thinners, that are actively in use for nonroutine maintenance or repair of a facility in individual containers not to exceed five (5) gallons liquid or one hundred (100) pounds solid.

~~DC~~. If it is determined that a facility or an activity that has been exempted under subsection ~~C-B~~ of this section poses a significant groundwater hazard, the City may require compliance with relevant provisions of this chapter.

~~ED~~. If the use of an exempt facility is changed or if the facility is expanded or upgraded, the owner or operator shall submit a Hazardous Materials Questionnaire within thirty (30) days of the change to determine the regulatory status of the facility under this chapter. (Ord. 2180 § 1 (part), 2003).

### **13.07.100 Performance standards.**

A. General Standards. Within five (5) years, any facility or activity existing as of the effective date of this chapter within which hazardous materials or other deleterious substances are present shall comply with the relevant performance standards in RCDG 20D.140.~~10-30050-040~~ or equivalent best management practices acceptable to the City.

B. Specific Performance Standards. The following specific performance standards apply to the following listed facilities within Wellhead Protection Zone 1 or 2:

1. Sewer Pipelines. Should the Director have reason to believe that the operation of a sewer pipeline and conveyance system appurtenances existing as of the effective date of this chapter may be degrading groundwater quality, the Director may require that leak testing be conducted. Should leakage be detected, the Director shall require correction to his/her satisfaction.

2. Stormwater Infiltration Systems. Stormwater infiltration systems existing as of the effective date of this chapter located at regulated facilities must address specific releases posed by hazardous material storage or processing. These risks may be mitigated by physical means or equivalent best management practices in accordance with an approved Hazardous Materials Management Plan for the regulated facility.

a. Within five (5) years of the effective date of this chapter, any stormwater infiltration systems existing as of the effective date of this chapter shall be certified by a professional engineer or engineering geologist registered in the State of Washington as conforming to the requirements of the Washington Department of Ecology Stormwater Management Manual for Western Washington (2001), as adopted by the City of Redmond. If a system cannot be so certified, the system shall be modified such that the certification is attained.

b. Provisions to prevent releases of hazardous materials into stormwater systems shall be updated in the Hazardous Materials Management Plan and supported by upgraded or new infiltration system designs, as necessary, to reflect significant changes in types, quantities, and handling of hazardous materials.

c. The owner or operator of a regulated stormwater infiltration facility shall notify the Public Works Department that a stormwater infiltration system has been decommissioned within sixty (60) days of its decommissioning.

3. Underground Hydraulic Elevator Cylinders. The owner or operator of any facility with an underground hydraulic elevator pressure cylinder shall inspect the annulus at least once every six (6) months for evidence of hydraulic fluid leakage and report the

results to the Director. If leakage is detected, the facility owner or operator shall complete repairs within thirty (30) days of discovery of leakage, and document such repairs to the Director within thirty (30) days of completion of repairs.

C. Residential Users. Residential users of hazardous materials living in the City of Redmond shall reduce contamination risks to groundwater by:

1. Following storage, use, and disposal instructions on all household hazardous chemical containers;
2. Following storage, use, application, and disposal instructions for pesticides, herbicides, and fertilizers;
3. Following storage, use, and disposal instructions for automotive fuels, lubricants, and cleaning products; and
4. Reporting unauthorized releases of hazardous materials into the environment. (Ord. 2180 § 1 (part), 2003).

### **13.07.130 Inspections.**

A. The City shall have the right to inspect a facility at reasonable times for the purposes of determining compliance with this chapter. Inspections may include, but are not limited to, visual inspections of hazardous materials storage and secondary containment areas; inspections of Hazardous Materials Management Plans; and sampling of soils, surface water and groundwater.

B. Prior to making inspections on private property for compliance with this chapter, ~~the City shall provide notice to the owner or operator of the date planned for the inspection. The City shall provide a minimum of twenty four (24) hours' notice unless there is an imminent threat to human health or the environment. Upon arrival,~~ the City's inspector shall present identification credentials, state the purpose of the inspection, and request entry.

~~C. If the property or any building or structure on the property is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry.~~

~~D. If after reasonable effort the inspector is unable to locate the owner or other person(s) having charge or control of the property, and has reason to believe the condition of the property creates an imminent hazard to human health or the environment, the inspector may enter.~~

~~C.E.~~ In the event that access by a City inspector is denied, the City may apply to a court of competent jurisdiction for issuance of a search warrant authorizing entry for purposes of carrying out the inspections provided for under this section.

~~D.F.~~ Coordination with Other City Inspection Programs. City inspectors shall endeavor to coordinate inspections for wellhead protection with stormwater, fire, and/or other applicable inspection programs. (Ord. 2180 § 1 (part), 2003).

### **13.07.170 Orders.**

A. The Director shall have the authority to issue to an owner or operator of a facility, ~~or any other person,~~ an order to bring the facility into compliance with this chapter. ~~in The order shall provide notice of compliance requirements including: in accordance with the provisions set forth in RMC 1.14.100.~~

- ~~1. A description of the specific nature, extent, and time of the violation and the damage that might reasonably occur;~~

- ~~2. Notification that the violation cease and desist and, in appropriate cases, the specific corrective action to be taken;~~
- ~~3. A detailed plan enumerating the manner in which the corrective actions stipulated under subsection (A)(2) of this section will be undertaken to bring the facility into compliance and a schedule for undertaking such actions;~~
- ~~4. The timeframe within which the corrective action must be initiated and completed; and~~
- ~~5. Civil and/or criminal penalties that might be incurred by the owner or operator of a facility not in compliance with this chapter. (Ord. 2180 § 1 (part), 2003).~~